Date: January 25, 2006 Planning Commission Meeting

#### Item No.

#### MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: New Business Report Prepared by: Richard Pio Roda, Terry Medina

and Tom Williams

Public Hearing: Yes: \_\_\_\_\_ No: \_\_X\_\_\_

Notices Mailed On: N/A Published On: N/A Posted On: N/A

TITLE: PLANNING COMMISSION UPDATE ON CONFLICTS OF

INTEREST, THE BROWN ACT, OPEN GOVERNMENT ORDINANCE AND ROBERT'S RULES OF ORDER

Proposal: Presentation of Conflicts of Interest, the Brown Act, Open Government

Ordinance and Robert's Rules of Order

Location: N/A
APN: N/A

**RECOMMENDATION:** No action required. Information only.

Applicant: N/A

Property Owner: N/A

Previous Action(s): N/A

General Plan Designation: N/A

Present Zoning: N/A

Existing Land Use: N/A

Agenda Sent To: N/A

Attachments: - Planning Commission Training, Open Government Ordinance, Conflicts

of Interest and Parliamentary Procedures PowerPoint Presentation

- Introduction to the City of Milpitas City Officials Event Calendar

PowerPoint Presentation

#### BACKGROUND

Richard Pio Roda, City Attorney, Terry Medina, Deputy Director of Information Services and Tom Williams, Planning and Neighborhood Services Director, will make a presentation at the meeting.

#### RECOMMENDATION

No action required. Information only.

# Planning Commission Training Open Government Ordinance Conflicts of Interest Parliamentary Procedures



## Today's Training

- Highlights of the Open Gov't Ordinance
  - Enhances Public Meeting (Brown Act) and Public Records maintenance and disclosure laws
  - Requires Registration of Lobbyists
  - Creates a "Public Officials' Calendar"
- Conflicts of Interest (Political Reform Act, Gov't Code 1090, Incompatible Offices)
- Robert's Rules of Order: Proper Public Meeting management

#### Public Meeting Requirements

- Brown Act enhancements
  - 8 calendar days agenda posting
  - "Know your Rights" notice
  - Written comment policy
  - Barriers to attendance
  - Meetings: Tape/Film recording and still photography
  - Testimony and Comment
  - Conflict-of-Interest Disclosure

# Public Records: Maintenance and Disclosure

- Administrative Appeal
  - 10 day "record exempt" response
  - 7 day "form/content" response
  - Supervisor of record petition process
- City policy to use technology for public records management
- Oral Public Information
- Policy Body Communications
- Required Disclosure of certain records
  - Enhanced rights to records listing gross earnings by job title.
- Records index
- Internet access

# Creates Lobbyist Registration Requirements

- Register and file report with City Clerk
  - General nature of issues trying to influence
  - Campaign contributions to elected officials
  - Fundraising activities on behalf of City officials
  - Contributions at the behest of City officials
  - Compensation received for services to City
  - Compensated work as a campaign consultant
- Registration fee (Open Government Commission)
- Requires registration of Lobbyists working on behalf of the City

#### Creates "Public Officials' Calendar"

- Maintenance of a Daily Calendar
  - Applies to the Mayor, City Council, Planning Commission & City Manager
  - Must maintain a calendar with the time, place, general nature of issues discussed and attendees of meetings
  - The calendar is a public record
- Exception for Calendar Entries
  - Purely personal, social events where no City business is discussed
- Exemption from entry on the Calendar
  - Meetings regarding personnel issues

## Other Regulations...

# Solicitation of Donations by Elected Officials

- Applies to: Solicitation of donations by elected officials for charitable purposes and third party political campaigns
- Donations over \$100, must be reported quarterly

# Restriction/Prohibition on Certain Activities of Former Officials

 Applies to the Mayor, City Council and Planning Commission Members

 Prohibited from using experience or contacts to assist any applicant through the permitting process

#### Conflicts of Interest

- Political Reform Act
  - Governmental Decision
  - Reasonably Foreseeable Effect
    - Substantial Likelihood
  - Material Financial Effect
    - Direct or Indirect; Property interests
  - Distinguishable Effect
    - Effect on Commissioner is same as that on public at large

#### Conflicts of Interest

- Government Code 1090
  - –California Government Code Section 1090 prohibits public officials from being financially interested in contracts made by them or by the boards or commissions of which they are members.

## What do you do ...

- If you have a conflict of interest
  - Announce and explain the conflict of interest
    - Reflected in minutes
  - Leave the dais
    - Do not participate in discussion or vote
  - You may speak as a member of the public
  - Government Code 1090

## Incompatible Offices

- To fall within the doctrine of incompatibility of office, two elements must be present:
  - (1) the official in question must hold two public offices simultaneously; and
  - –(2) there must be some potential conflict or overlap in the functions or responsibilities of the two offices.

### Final point on conflict

- Reliance on City Attorney's opinion does not provide immunity under state statutes
  - Consider seeking an opinion from your personal attorney.
  - Immunity can only be obtained from the FPPC through a formal advice letter.
- Even though a public official believes that he or she is acting honestly and without the slightest intent of benefiting from participation in a decision, there may still be a violation. The conflict of interest rules in many instances are complex and although they may appear to some to be illogical, they must be kept in mind at all times.

#### Robert's Rules of Order

- Motions: Recognition, Move, Second, Restate, Discussion, Vote
- Chair has power to rule on questions of order
- Abstentions, Disqualifications
- Resolutions: Routine business and administrative matters requiring formal memorialization

#### Questions?

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# Introduction to the City of Milpitas City Officials Event Calendar



# "Calendar Section" of the Open Government Ordinance

The Open Government Ordinance Requires that "Members of the City Council (including the Mayor), Planning Commission and the City Manager shall maintain a monthly City Calendar form which includes all City-related appointments, meetings, including regular and special City Council and Planning Commission meetings, public events or speaking engagements, meetings with developers, meetings with consultants, meetings with lobbyists, regional meetings, and meetings of subcommittees or task forces. The description shall include the meeting's duration, and shall include a listing of all principal individuals present at meetings with developers, meetings with consultants, and meetings with lobbyists. The Mayor, City Council, City Manager and Planning Commission members shall submit the updated calendar forms for the prior month to the City Clerk during the first week of every month, and the schedule shall be a public record subject to inspection during normal business hours at the office of the City Clerk and additionally available in electronic format on the City's official website. Councilmembers shall be trained in the operation and procedures for entering or reentering data into an automated calendaring system maintained on the City's website."

## City Officials Event Calendar

#### Summary of the Key Points of the Calendaring Requirements:

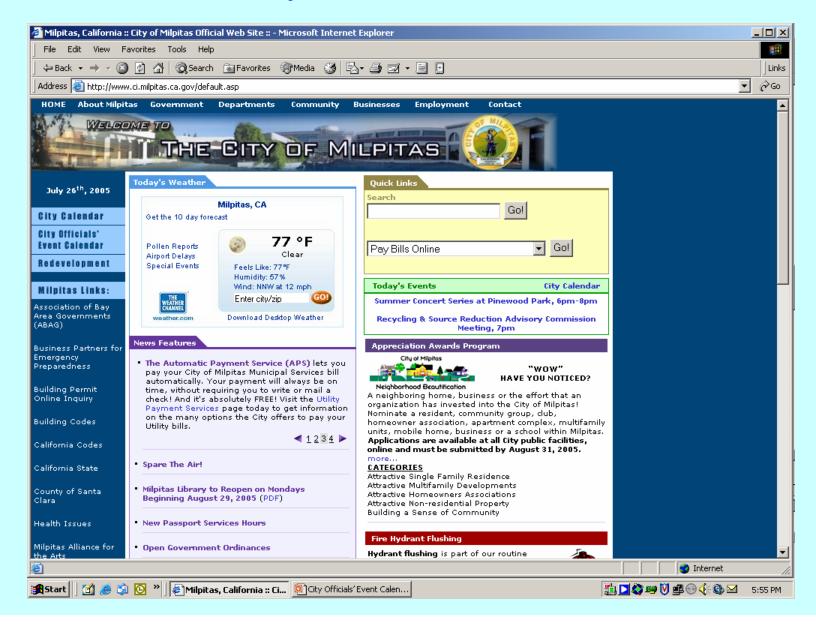
- •Members of the City Council (including the Mayor), Planning Commission and the City Manager shall maintain a monthly City Calendar
- •Includes all City-related appointments, meetings, including regular and special City Council and Planning Commission meetings, public events or speaking engagements, meetings with developers, meetings with consultants, meetings with lobbyists, regional meetings, and meetings of subcommittees or task forces.
- •Include the meeting's duration, a listing of all principal individuals present at meeting
- •Submit the updated calendar forms for the prior month to the City Clerk during the first week of every month
- •The schedule shall be a public record subject to inspection during normal business hours at the office of the City Clerk
- •Available in electronic format on the City's official website.

## City Officials Event Calendar

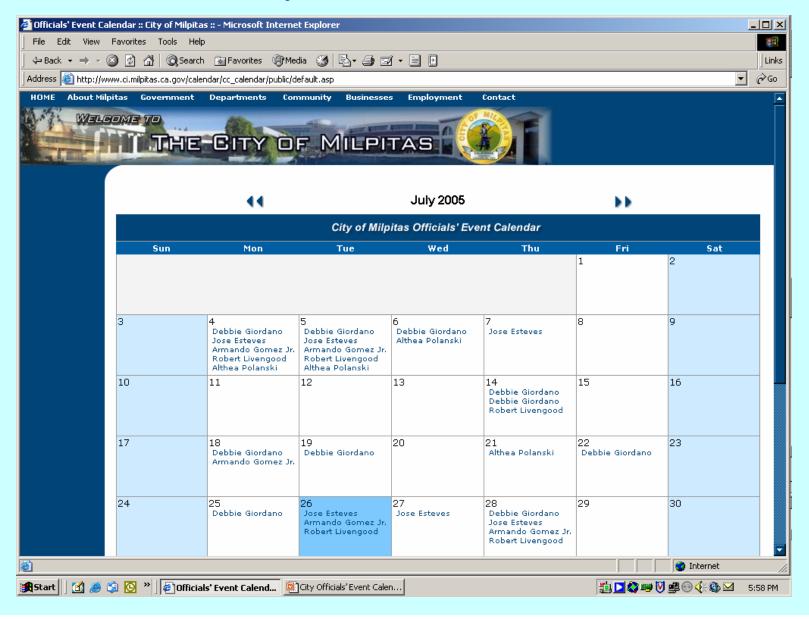
#### Options for Maintaining the Calendar:

- •Submit a hard copy form to the City Clerk's Office with the required information prior to the end of the first week of the month indicating the prior month's events.
- •Complete an electronic calendar available on the City's Website prior to the end of the first week of the month for events from the prior month.
- •Maintain an electronic Calendar available on the City's Website on an ongoing basis.

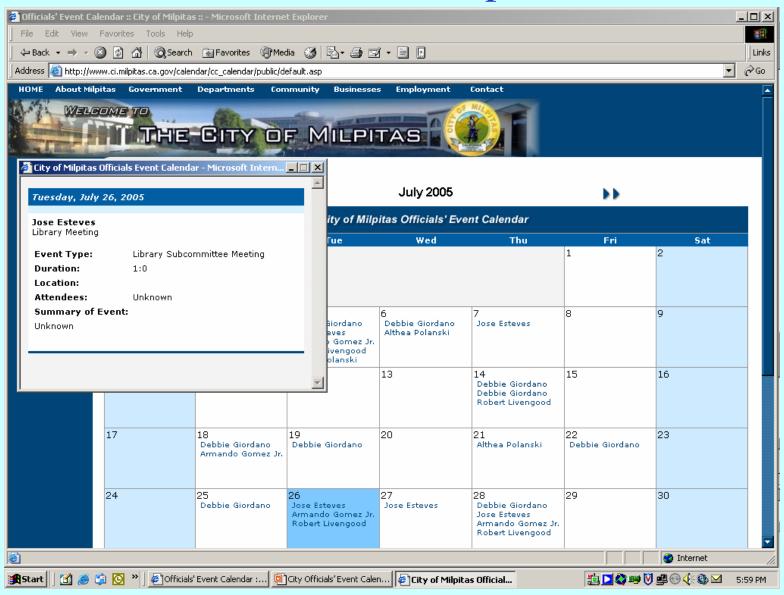
#### Overview of City Officials' Event Calendar



#### Overview of City Officials' Event Calendar



#### Public Detail View of a Specific Event



#### Personal Detail of Most Recent Events

